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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR.	ATTORNEY DOCKET NO.
09/690,377	10/17/00	AIBA	N JG-KM-4818D

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QM12/0703

EXAMINER

TAWFIK, S

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 07/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/690,377

Applicant(s)

AIBA ET AL.

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6, 7, 9 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 10 been renumbered as claim 9.

Claim 6 is objected to because of the following informalities: applicants need to amend claim 6 as follow:

(claim 6, line 2) delete "10" and insert --9-- . Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coplan et al. (4,017,030) in view of Sakurada et al. (5,993,843).

Coplan discloses a method for preparing an annular sustained release pheromone-dispenser whose end portions are connected to each other (Fig. 3a and 3b); comprising the steps of arranging a plurality of continuous plastic tubes (Figs. 3a and 3b) which are filled with a liquid

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synthetic sex pheromone (Fig. 1); fusing them at a predetermined pitches by heating under a pressure and then cutting them at each fused portion ^{To produce side} (Figs. 3a and 3b; column 8, lines 53-57).

Coplan does not disclose that pulling apart the central portion to separate the central portion of each tube from the central portion of the other tube. However, Sakurada discloses a similar method of preparing an annular sustained release pheromone-dispenser comprising the step of pulling apart the central portion to separate the central portion of each tube from the central portion of the other tube, see for example (Fig. 1, via 18; column 14, lines 65-67 and column 15, lines 1 and 2) to provide a biodegradable sustained release preparation which can, during application, carry out sustained release of its active ingredient stably at a desired release rate for a long period of time (column 3, lines 50-55).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified by Coplan's method for preparing an annular sustained release pheromone-dispenser by having the step of pulling apart the central portion to separate the central portion of each tube from the central portion of the other tube, as suggested by Sakurada, in order to provide a biodegradable sustained release preparation which can, during application, carry out sustained release of its active ingredient stably at a desired release rate for a long period of time.

Regarding claim 6: Coplan discloses the plurality of plastic tubes are fused by heating under a pressure after sandwiching the portion to be fused between a pair of pieces made of a plastic (Fig. 13; column 8, lines 53-58).

Response to Arguments

Applicant's arguments filed 7/7/2001 have been fully considered but they are not persuasive.

Applicants argue in pages 2 and 3 that Coplan's reference does not disclose the step of pulling apart the central portions of the tubes. The examiner agrees with the applicants that Coplan's reference does not disclose the step of pulling apart the central portions of the tubes, but the examiner also believes as set forth in the action that Sakurada's reference discloses the step of pulling apart the central portions of the tubes.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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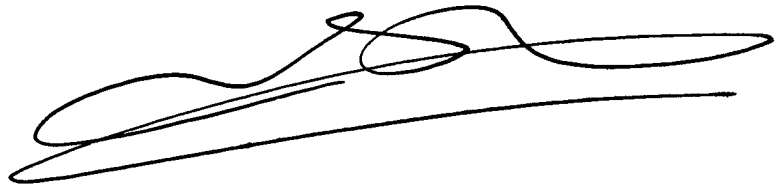
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809.

The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST
June 28, 2001

A handwritten signature in black ink, appearing to read 'PETER VO', with a long horizontal stroke extending to the right.

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700